

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE  
AT NASHVILLE

Assigned on Brief January 23, 2007

**STATE OF TENNESSEE v. ARIKO T. HALIBURTON**

**Direct Appeal from the Criminal Court for Davidson County  
No. 2004-A-773 Mark J. Fishburn, Judge**

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**No. M2006-00443-CCA-R3-CD - Filed April 4, 2007**

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Defendant, Ariko T. Haliburton, pled guilty to one count of possession with intent to sell 0.5 grams or more of cocaine, a Class B felony. Defendant agreed to a sentence of three years as a Range I standard offender, and left to the determination of the trial court whether the sentence should be served consecutively to or concurrently with his sentence for a conviction of attempted second degree murder in an unrelated case. The trial court imposed consecutive sentencing based upon Defendant's status as a professional criminal. On appeal, Defendant does not challenge the trial court's determination that Defendant is a professional criminal. However, Defendant argues that the trial court erred by ordering consecutive sentencing because certain sentencing principles were not found by the trial court. After a thorough review, we affirm the judgment of the trial court pursuant to Rule 20 of the Rules of the Tennessee Court of Criminal Appeals.

**Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Criminal Court for Davidson  
County Affirmed Pursuant to Rule 20 of the Tennessee Court of Criminal Appeals**

THOMAS T. WOODALL, J., delivered the opinion of the court, in which DAVID H. WELLES and ROBERT W. WEDEMEYER, JJ., joined.

Michael A. Colavecchio, Nashville, Tennessee, for the appellant, Ariko T. Haliburton.

Robert E. Cooper, Jr., Attorney General and Reporter; Renee W. Turner, Assistant Attorney General; Victor S. (Torry) Johnson III, District Attorney General; and Kathy Morante, Assistant District Attorney General, for the appellee, State of Tennessee.

**MEMORANDUM OPINION**

In his brief, Defendant argues that in addition to the criteria in Tennessee Code Annotated section 40-35-115, which pertain to consecutive sentencing, consecutive sentencing is guided by general sentencing principles providing that the length of the sentence be justly deserved in relation to the seriousness of the offense and that the consecutive sentence be no greater than that deserved for the offenses committed. *See* T.C.A. § 40-35-103. Defendant also makes the erroneous argument

that “in order to impose consecutive sentences, the trial court must first find that defendant is [a] dangerous offender, and once such a determination is made, proof must also show that terms imposed are reasonably related to [the] severity of offenses committed and are necessary in order to protect [the] public from further criminal acts by defendant.”

In order to impose consecutive sentencing, it is clear that the trial court is not required to first find the defendant to be a “dangerous offender.” *See* T.C.A. § 40-35-115(b)(1), (2), (3), (5), (6), (7).

Defendant did not include in the record a transcript of the guilty plea submission hearing. It is well settled that when a defendant appeals a sentencing issue and fails to provide a transcript of the guilty plea submission hearing in the record, that this court presumes that the action of the trial court was correct. *See State v. Keen*, 996 S.W.2d 842, 844 (Tenn. Crim. App.1999).

We have reviewed the trial court’s comments which were made during the course of the sentencing hearing. Based upon the comments of the trial court, and the fact that the guilty plea submission hearing is not included in the record, we conclude that the trial court properly sentenced Defendant.

### CONCLUSION

The judgment of the trial court is affirmed pursuant to Rule 20, Tennessee Rules of the Court of Criminal Appeals.

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THOMAS T. WOODALL, JUDGE